

JMM:MPC  
F#201300658

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D. N.Y.

★ **AUG 27 2014** ★

LONG ISLAND OFFICE

----- X

UNITED STATES OF AMERICA

-against-

COMPLAINT AND AFFIDAVIT  
IN SUPPORT OF AN  
APPLICATION FOR AN  
ARREST WARRANT

VYTAUTAS MALISAUSKAS

(18 U.S.C. § 1344)

Defendant.

----- X

**MJ 14-0756**

EASTERN DISTRICT OF NEW YORK, SS:

*AKT*

ARISTOTELIS KOUGEMITROS, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

On or about and between September 2011 and April 2013, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant VYTAUTAS MALISAUSKAS, together with others, did knowingly and intentionally executed a scheme and artifice to defraud a financial institution to wit: Israel Discount Bank ("IDB") to obtain monies, funds, credits, assets and other property owned by or under the custody and control of the Bank, by means of false pretenses, representations and promises.

(Title 18, United States Code, Section 1344)

The source of your deponent's information and the grounds for his belief are as follows:<sup>1/</sup>

1. I have been a Special Agent with the Federal Bureau of Investigation for approximately three years. I have been involved in the investigation of several cases of bank fraud. I am familiar with the facts and circumstances set forth below from my direct participation in the investigation.

2. Oak Rock Financial, LLC, ("Oak Rock") was a limited liability financial lending company incorporated in 2001, located in Suffolk County, New York. Oak Rock was in the business of securing lines of credit for businesses throughout the United States.

3. The defendant VYTAUTAS MALISAUSKAS was Oak Rock's Information Technology Officer.

4. IDB was a "financial institution" as defined in Title 18, United States Code, Section 20. The deposits of IDB were insured by the Federal Deposit Insurance Corporation. IDB was responsible for providing a line of credit to Oak Rock.

5. On or about July 19, 2001, Oak Rock and IDB entered into an agreement (the "Agreement") under which Oak Rock could borrow money from IDB through revolving credit and term loans. As part of the Agreement, Oak Rock guaranteed the revolving credit and term loans. By April 2013, Oak Rock borrowed up to \$90 million from IDB through the revolving credit and term loans.

---

<sup>1/</sup> Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

6. Under the terms of the Agreement, Oak Rock pledged all of its property, including property acquired by Oak Rock while the loans were outstanding, and all proceeds of such property, as security for the loans. The Agreement defined Oak Rock's property to include its accounts receivable.

7. The Agreement provided that the maximum amount that Oak Rock could borrow under the revolving credit loan in any given month was an amount between 75 and 80 percent of Oak Rock's eligible accounts receivable. The Agreement required Oak Rock to submit to IDB Borrowing Base Certificates ("BBCs") with detailed reports for each month stating the total value of both Oak Rock's eligible accounts receivable and other current collateral. The Agreement further required that the BBCs be certified as accurate by an officer of Oak Rock. IDB relied on the monthly BBCs to determine the amount of money that Oak Rock could borrow in any given month.


8. The Agreement also required Oak Rock to maintain a standard system of accounting in accordance with generally accepted accounting principles in the United States and to furnish: (a) consolidated balance sheets of Oak Rock on a quarterly and annual basis; (b) accounts receivable aging reports as of the last day of each month, organized by invoice date; (c) accounts payable aging reports as of the last day of each month; and (d) collateral reports as of the last day of each month.

9. Starting in or about September 2011 and continuing through in or about April 2013, the defendant, VYTAUTAS MALISAUSKAS, together with others, deliberately and falsely overstated the accounts receivable on the consolidated financial statements and BBCs that were supplied to IDB. MALISAUSKAS, together with others, achieved this

result by a variety of means, including “re-aging” delinquent accounts receivable by copying data from timely paid accounts to make the loans appear stable and unlikely to default and therefore eligible to be borrowed against.

10. Based on the above described fraudulent activity, IBD continued a revolving 90 million dollar credit to Oak Rock.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for defendant VYTAUTAS MALISAUSKAS so that he may be dealt with according to law.

  
ARISTOTELIS KOUGEMITROS  
Special Agent  
Federal Bureau of Investigation

Sworn to before me this  
27th day of August 2014

  
HON. A. KATHLEEN TOMLINSON  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK